

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

BUILDERS ASSOCIATION OF
METROPOLITAN PITTSBURGH and
S. RAND WERRIN,

Plaintiffs,

V.

CITY OF PITTSBURGH,

Defendant.

$$\begin{array}{c}) \\) \\) \\) \\) \\) \\) \\) \\) \\) \end{array}$$

Civil Action No. 2:22-CV-00706-RJC

**MOTION TO REQUEST ORAL ARGUMENT ON THE CITY’S MOTION TO
DISMISS PLAINTIFFS’ FIRST AMENDED COMPLAINT
FOR LACK OF SUBJECT MATTER JURISDICTION**

Defendant City of Pittsburgh (“the City”), by and through undersigned counsel, submits this Motion to Request Oral Argument on the City’s Motion to Dismiss Plaintiffs’ First Amended Complaint for Lack of Subject Matter Jurisdiction:

1. On December 20, 2023, this Honorable Court issued its Case Management Order at ECF No. 91.

2. The Court permitted the parties to conduct discovery on the issue of the Court's subject matter jurisdiction prior to filing stage-one dispositive motions. ECF No. 91.

3. The parties engaged in and completed discovery related to the issues of standing and ripeness.

4. On August 23, 2024, the City filed a Motion to Dismiss Plaintiffs' First Amended Complaint for Lack of Subject Matter Jurisdiction (ECF No. 105) and a Brief in Support of its Motion. ECF No. 106.

5. Plaintiffs responded in opposition to the motion on October 24, 2024. ECF No. 112. In support of their response, Plaintiff attached affidavits containing information that was not disclosed in discovery. ECF Nos. 112-2–112-3.

6. On November 7, 2024, the City filed a Reply Brief in Support of its Motion to Dismiss, raising arguments related to this new evidence included by Plaintiffs in their response. ECF No. 113.

7. On November 15, 2024, Plaintiffs requested leave from this Court to file a sur-reply to the City’s Reply Brief. ECF No. 114. The City’s objection to this request was noted in Plaintiffs’ motion for leave. *Id.*, ¶ 14.

8. The Court granted Plaintiffs’ request for leave (ECF No. 115) shortly after it was filed, and Plaintiffs filed their sur-reply that same day. ECF No. 116. Therein, Plaintiffs addressed the City’s arguments that “certain entities are not members of BAMP and that certain affidavits submitted by Plaintiffs in support of standing should be disregarded by the Court.” *Id.* at 1.

9. This Court permits parties to request argument where any parties “believ[es] that oral argument will materially advance the decisional process[.]” Practices and Procedures of Judge Robert J. Colville, Section II(A).

10. The City believes that oral argument will materially advance the decisional process in this matter.

11. This matter involves numerous issues, including the makeup of BAMP’s membership, the relief available under the City’s Zoning Code, and Plaintiffs’ efforts to sell and/or develop properties. The City believes all of these issues are determinative of its Motion to Dismiss.

12. The City respectfully requests the opportunity to more fully argue these issues before the Court and address any specific inquiries the Court may have after reviewing the parties' extensive briefings of these issues.

13. The City further submits that the Court's decisional process would be advanced by permitting the City to respond to the contentions of Plaintiffs' Sur-Reply at ECF No. 116.

14. Plaintiffs consent to the City's request for oral argument.

15. Should the Court decide that oral argument is not necessary, the City respectfully requests leave to file a brief sur-sur-reply to address the arguments in Plaintiffs' sur-reply.

16. Plaintiffs oppose the City's alternative request to file a sur-sur-reply.

WHEREFORE, the City requests that this Honorable Court grant the instant Motion to Request Oral Argument on the City's Motion to Dismiss Plaintiffs' First Amended Complaint for Lack of Subject Matter Jurisdiction and enter the attached proposed Order of Court.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the within **MOTION TO REQUEST ORAL ARGUMENT ON THE CITY’S MOTION TO DISMISS PLAINTIFFS’ FIRST AMENDED COMPLAINT FOR LACK OF SUBJECT MATTER JURISDICTION** was filed electronically November 19, 2024. Notice of this filing will be sent to all counsel of record via the Court’s electronic case filing system and constitutes service of this filing under Rule 5(b)(2)(E) of the Federal Rules of Civil Procedure. Parties may access this filing through the Court’s ECF system.

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